

PAUL J. LAMBRIX

IBLA 81-1098

Decided April 8, 1982

Appeal from decision of Idaho State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. I MC 7283, I MC 7284.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Affidavit of Assessment Work or Notice of Intention to Hold Claim--Mining Claims: Recordation

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1, the owner of a mining claim located prior to Oct. 21, 1976, must file evidence of assessment work or a notice of intention to hold the claim in the proper office of the Bureau of Land Management on or before Oct. 22, 1979. Failure to comply with this recordation requirement is deemed conclusively to constitute an abandonment of the claim by the owner and renders the claim void.

APPEARANCES: Paul J. Lambrix, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Paul J. Lambrix appeals the September 8, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), declaring the unpatented Alpha and Lega lode mining claims, I MC 7283 and I MC 7284, abandoned and void because no evidence of assessment work was filed with BLM prior to October 22, 1979, or at any time in 1979, in violation of section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1.

Appellant asserts the claims have been held and worked by his family since their location as the Alpha and Lega claims in 1939, and before that year under other names. The proof of labor on the claims has been recorded each year in the records of Elmore County, Idaho. Appellant contends that

the proof of labor for the 1979 assessment year was filed with BLM September 8, 1978, and has submitted a copy of the proof recorded in Elmore County September 7, 1978.

The owner of an unpatented mining claim located prior to October 21, 1976, had until October 22, 1979, to record the location notice with BLM and to provide certain ancillary information, including evidence of assessment work or a notice of intention to hold the claim. Section 314, FLPMA, supra. Recordation of the assessment work is effected only by filing of the appropriate instrument in the proper BLM office within the time periods prescribed by the statute. Failure to comply with the statute and the implementing regulations requiring recordation of information relating to unpatented mining claims on public land must result in a conclusive finding that the claim has been abandoned and that it is void. Modoc Gem and Mineral Society, 58 IBLA 142 (1981). This Board has no authority to waive the statutory and regulatory requirements or to afford any relief from the statutory consequences of failure to comply. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

The letter of appellant which accompanied the copies of the location notices, received by BLM October 4, 1978, states: "Enclosed are copies of location notice, map showing outline, and a check for \$10.00 covering the filing fee for the two claims." There is no reference in the communication to any affidavit of assessment work being submitted at that time. With no evidence that an affidavit of assessment work or a notice of intention to hold the claims had been filed with BLM during calendar year 1979, BLM had no alternative under FLPMA other than to issue a decision declaring the claims abandoned and void.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Bruce R. Harris
Administrative Judge

